

OREGON HAZARDOUS WASTE FACILITY SITING PROVISIONS

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Relevant Statutes and Regulations:

- G Oregon Revised Statutes, Chapter 466, 1993 Edition. Hazardous Waste and Hazardous Materials II; Public Health and Safety; Storage, Treatment and Disposal of Hazardous Waste and PCB
- G State of Oregon, Department of Environmental Quality, Hazardous Waste Rules, Division 120--Additional Siting and Permitting Requirements for Hazardous Waste and PCB Treatment and Disposal Facilities. Effective: August 1, 1996.
- G State of Oregon, Department of Environmental Quality, Hazardous Waste Rules, Division 100--Hazardous Waste Management System: General--and Division 104--Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities. Effective August 1, 1996
<http://www.deq.state.or.us/od/rules/statrule.htm> has statutes and rules

Other Relevant State Documents:

- G None.

State Agency Webb Address:

- G <http://www.deq.state.or.us/>

Oregon Hazardous Waste Facility Siting Provisions

Affected Facilities:

Division 120-Additional Siting and Permitting Requirements for Hazardous Waste and PCB Treatment and Disposal Facilities applies to:

- G** New hazardous waste and PCB treatment and disposal facilities located off the site of waste generation (off-site) [340-120-001(2)(a)]; and
- G** Hazardous waste and PCB land disposal facilities located on the site of waste generation (on-site) [340-120-001(2)(b)].
- G** Hazardous waste and PCB treatment and disposal facilities located off the site of waste generation (off-site) that receive less than 50 percent of waste on a weekly basis from off-site, may be located inside urban growth boundaries as defined by ORS 197.295 and therefore do not have to meet Oregon Administrative Rules (OAR) 340-120-010(d)(A)(i) and 340-120-015(1)(a) [340-120-001(3)].
- G** New hazardous waste and PCB treatment and disposal facilities, other than land disposal facilities, located on the site of waste generation (on-site), are only subject to the following parts of Division 120 (Additional Siting and Permitting Requirements for Hazardous Waste and PCB Treatment and Disposal Facilities):
 - 340-120-010(2)(c) Technology and Design;
 - 340-120-010(2)(e) Property Line Setback;
 - 340-120-010(2)(g) Owner and Operator Capability;
 - 340-120-010(2)(h) Compliance History;
 - 340-120-020 Community Participation;
 - 340-120-030 Permit Application Fee [340-120-001(4)].

Division 120 does not apply to [340-120-001(7)]:

- !** Portable hazardous waste and PCB treatment and disposal facilities that are located on a single site of generation (on-site) less than 15 days each year;
- !** Hazardous waste and PCB treatment or disposal sites involved in remedial action under ORS Chapter 466 or closing under Divisions 100 through 110 of this chapter;
- !** Facilities treating hazardous waste pursuant to the recycling requirements of 40 CFR 261.6;
- !** Emergency permits issued by the Director according to 40 CFR 270.61; and
- !** Facilities permitted by the Department to manage municipal or industrial solid waste, if the hazardous waste the facilities treat or dispose of is excluded from regulation by 40 CFR 261.5.

Existing facilities [340-120-005(8)]:

- !** The owner of an existing facility with an effective permit must reapply according to the normal reapplication procedures; however, when the new facilities affected by Division 120 reapply they must demonstrate that they still meet certain criteria of the Authorization to Proceed and that the emergency response team criteria still hold true.

Oregon Hazardous Waste Facility Siting Provisions

Definitions of Facility Types:

- G** A “new facility” is defined as a facility for which an original permit application was submitted after the effective date of Division 120 of Oregon’s Hazardous Waste Rules (effective May 20, 1986) [340-120-001(6)(a)]; or
- A facility where a different type of treatment or disposal is being proposed (i.e., adding incineration at a facility utilizing disposal, or changing from chemical treatment to biological treatment at a facility) [340-120-001(6)(b)].
- G** A facility can receive as much as 10 percent of waste on a weekly basis from off the site and be an on-site facility [340-120-001(5)].

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Topic	Stage ¹	State citation ²	Provision
ADMINISTRATION			
STATE ADMINISTERING AGENCY			
Oregon Department of Environmental Quality--overall duties	PPA PA PDP	<i>[466.015(1) & (2)]</i>	<p>The powers and duties of the Department are to:</p> <p>Ⓒ Provide for the administration, enforcement and implementation of ORS 466.005 to 466.385 and 466.890 [Oregon's hazardous waste statutes] and may perform all functions necessary:</p> <ul style="list-style-type: none"> -- to insure the proper management of hazardous waste by generators; -- for the regulation of the operation and construction of hazardous waste treatment, storage, and disposal sites; and -- For the permitting of hazardous waste treatment, storage and disposal sites in consultation with the appropriate county governing body or city council. <p>Ⓒ Coordinate and supervise all functions of state and local governmental agencies engaged in activities subject to the provisions of ORS 466.005 to 466.385 and 466.890.</p>
	PPA PA	340-120-005 (1)(a)-(c)	<p>During the permitting process, the Department oversees the following three steps for applicants seeking hazardous waste disposal facility permits:</p> <ol style="list-style-type: none"> 1) Submit a request for and obtain an Authorization to Proceed from the Department; 2) Submit a request for and obtain a Land Use Compatibility Statement from the local government with land use jurisdiction or as applicable, from the Department; and 3) Submit a complete application for and obtain a treatment or disposal permit pursuant to Divisions 105, 106, and 110 of Oregon Hazardous Waste Rules from the Department, or as applicable, from the Commission. <p>Completeness by the Department. If an applicant fails to correct deficiencies within 90 days of written notice, the Department may deny the request.</p>

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PA = Post permit application, but prior to draft permit provision

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Oregon Hazardous Waste Facility Siting Provisions

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Department of Environmental Quality--Authorization to Proceed responsibilities	PPA	340-120-005 (2)-(4) and (7)	<p>C The Department establishes an initial period in which it accepts requests for Authorizations to Proceed. The initial period begins May 15, 1986 and ends January 1, 1987. The Department shall wait until at least the end of the initial period before approving or denying any of the requests.</p> <p>C Requests for an Authorization to Proceed received by the Department after January 1, 1987 must include information to allow the Commission to find there is a need for a new facility. The Department cannot approve an Authorization to Proceed request received after January 1, 1987 until the Commission makes this finding.</p> <p>C The Department must review each Authorization to Proceed for completeness within 90 days after receipt. If applicant fails to correct deficiencies within 90 days of written notice from the Department, the Department may deny the request.</p> <p>C If the Department or Commission denies the hazardous waste or PCB permit, then the Authorization to Proceed is revoked.</p>
		340-120-010(2)	<p>C Criteria that must be met for the Authorization to Proceed include: demonstrated need, appropriate capacity, demonstrated use of the best available technology, and indicate that the facility will meet certain location standards.</p>
Department of Environmental Quality--Land Use Compatibility findings	PPA	340-120-015(3)	If the local government with land use jurisdiction does not wish to act on the compatibility request or address any of the criteria in the request, the Department must act on the request or prepare findings for the criteria. The Department is ultimately responsible for determining compliance with state land use goals for the purpose of issuing a permit.
Director of the Department of Environmental Quality	PPA	[466.050]	Establishes citizen advisory committees as the director considers necessary to aid and advise the director and the commission in the selection of a hazardous waste or PCB treatment or disposal facility or the site of such facility. The Director determines the representation, membership, terms and organization of the committees and appoints their members. The Director or his designee shall be a nonvoting member of each committee.

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Environmental Quality Commission-general duties	PPA PA PDP	[466.025]	The duties of the Commission are to: C Carry out the provisions of ORS 466.005 to 466.385 and 466.890. In order to carry out these provisions, the Commission shall: -- limit the number of facilities disposing of or treating hazardous waste or PCB waste; -- establish classes of hazardous waste or PCB waste that may be disposed of or treated; -- designate the location of a facility designed to dispose of or treat hazardous waste or PCB waste; and -- limit the hazardous waste or PCB waste accepted for treatment or disposal at a facility first [and primarily] to waste originating in Oregon, or to states that are parties to the Northwest Interstate Compact on Low-Level Radioactive Waste Management.
		[466.125]	C Cause notice to be given in the county or counties where the proposed site is located in a manner reasonably calculated to notify interested and affected persons of the permit application.
		[466.130]	C Conduct a public hearing in the county or counties where a proposed hazardous waste disposal site is located and may conduct hearings at such other places as the Department considers suitable.

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Environmental Quality Commission-siting duties	PPA	<i>[466.055]</i>	<p>Before issuing a permit for a new facility designed to dispose or treat hazardous waste or PCB, the commission must find on the basis of information submitted by the applicant, the department or any other interested party, that the proposed facility meets the following criteria relative to location:</p> <ul style="list-style-type: none"> C It is suitable for the type and amount of hazardous waste or PCB intended for treatment or disposal at the facility C It provides the maximum protection possible to the public health and safety and environment of Oregon from the release of hazardous waste or PCB stored, treated or disposed of at the facility; and C It is situated sufficient distance from urban growth boundaries as defined in a comprehensive plan, to protect the public health and safety, accessible by transportation routes that minimize the threat to the public health and safety and to the environment and sufficient distance from parks, wilderness and recreation areas to prevent adverse impacts on public use and enjoyment of these areas. <p>The Commission must also consider the construction, operation, need for, and public health/environmental effects of the hazardous waste/PCBs that will be handled.</p>

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The applicant - responsibilities	PPA PA	340-120-005 (1), (5), (6)	<p>Ⓒ The applicant must follow a three step permitting process as outlined under the Department responsibilities above.</p> <p>Ⓒ After obtaining an Authorization to Proceed and a Land Use Compatibility Statement, an applicant may apply for a hazardous waste or PCB treatment or disposal permit pursuant to Divisions 105, 106, and 110 of Chapter 340.</p> <p>Ⓒ To retain an Authorization to Proceed, an applicant shall:</p> <ul style="list-style-type: none"> -- Submit a request to the appropriate planning jurisdiction for the Land Use Compatibility Statement with 90 days of issuance of the Authorization to Proceed; and -- Submit an application for a treatment or disposal permit to the Department within 6 months of issuance of the Land Use Compatibility Statement. <p>Ⓒ Pursuant to Divisions 105, 106, and 110 of Oregon Hazardous Waste Rules, the applicant may obtain a treatment or disposal permit application from the Commission. The applicant may also submit the completed application to the Commission.</p>
THE INTERAGENCY COORDINATING COUNCIL			
None.			
INDEPENDENT SITING BOARD			
None.			

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LOCAL COMMUNITY NEEDS AND INVOLVEMENT			
LOCAL REVIEW/INVOLVEMENT			
Local government with land use jurisdiction	PPA	340-120-005(6)(a)	Within 90 days of Authorization to Proceed issuance, the permit applicant submits request for Land Use Compatibility Statement from the local government with land use jurisdiction or from the Department.
		340-120-015(2)	The local government with land use jurisdiction must state in its findings whether the applicant requested an exception to any criteria, or if the local government did not consider any of the criteria. An exception may be approved by the local government or by the Department if the applicant demonstrates that the public health and safety and the environment are adequately protected by allowing the exception or if the exception provides substantially equivalent protection as compared to the criterion. The findings shall give a detailed justification for each exception allowed by local government or the Department.
		340-120-015(3)	The local government with land use jurisdiction should act on land use compatibility request within 180 days after a complete request was submitted by the applicant. If local government does not wish to act on the request or address any of the land use compatibility criteria, the Department will act on the request or prepare findings for the criteria. The Department is ultimately responsible for determining compliance with state land use goals for the purpose of issuing a permit.

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Local citizen advisory committee(s)	PPA PA PDP	340-120-020(1)-(4) and comment <i>[466.050, 466.040]</i>	<p>Local committee(s) to be appointed by the Director of the Department of Environmental Quality as soon as feasible after the Department receives Authorization to Proceed request. At least one-half of the appointments must be from a list of nominees submitted by the local government with land use jurisdiction. The Director appoints a chairperson of the committee. This committee provides input during the application review period which is established by the Environmental Quality Commission when that Commission finds that there is a need for an additional hazardous waste or PCB treatment or disposal facility.</p> <p>The local committee shall review applications during specified application periods and make recommendations on the applications to the Commission.</p> <p>The Director may also continue an authorized committee or appoint a new committee to review the operation of a facility once it's located and constructed.</p> <p>The local committee:</p> <ul style="list-style-type: none"> C Reviews design, construction, and operation of proposed hazardous waste and PCB treatment and disposal facilities; C Provides a forum for citizen comments, questions and concerns about the site and facility; C Promotes a dialogue between the community of the proposed facility and the company interested in siting the facility; C Prepares a written report summarizing local citizen concerns and the manner in which the company (permittee) is addressing these concerns. The report shall be considered by the Department and Commission and local government during the consideration of the proposed facility. <p>The Department recommends that the local government and the applicant consider negotiating an agreement appropriate for the proposed facility's local impact. The agreement may consider these and other issues:</p>

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Topic	Stage ¹	State citation ²	Provision
Local citizen advisory committee(s) (Continued)			<p>Training and equipping local fire, police and health department personnel to respond to accidents, spills and other emergencies.</p> <ul style="list-style-type: none"> Ⓒ Special monitoring both on and off-site for worker and community health status; Ⓒ Road improvements and maintenance to assure safe transportation of waste to the site; Ⓒ Possible changes in property values near the site due to the proposed facility; and Ⓒ A plan to resolve conflicts or disagreements that might develop between the facility operator and the community.
OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT			
No provisions found.			
COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS			
No provisions found.			
IMPACT OF FACILITY ON LOCAL LAND USE			
Zoning and use of adjacent lands	PPA	340-120-015 (1)(d)&(e)	<p>As part of the Land Use Compatibility findings:</p> <ul style="list-style-type: none"> Ⓒ The proposed facility must be allowable in the applicable zone and comply with all applicable development standards in the local land use regulations; and Ⓒ The proposed facility shall not prevent the use of adjacent lands for uses permitted or otherwise allowed in the applicable zone.

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Topic	Stage ¹	State citation ²	Provision
Other land use considerations	PPA	340-120-015 (1)(f)&(g)	<p>As part of the Land Use Compatibility findings:</p> <ul style="list-style-type: none"> Ⓒ Emergency services, including medical care, to respond to and address emergencies and accidents at the facility or involving wastes traveling local transportation routes to the facility have been identified and their adequacy has been assessed; and Ⓒ The facility shall have more than one transportation highway to it.
Facility applicant-local government potential local impact agreement	PPA	340-120-020(5)	<p>The Department recommends that the local government and applicant consider negotiating an agreement appropriate for the proposed facility's potential local impact. The agreement might consider these and other issues:</p> <ul style="list-style-type: none"> Ⓒ Training and equipping local fire, police, and health department personnel to respond to accidents, spills and other emergencies; Ⓒ Special monitoring both on and off-site for worker and community health status; Ⓒ Road improvements and maintenance to assure safe transportation of waste to the site; Ⓒ Possible changes in property values near the site due to the proposed facility; and Ⓒ A plan to resolve conflicts or disagreements that might develop between the facility operator and the community.

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PUBLIC PARTICIPATION			
The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)			
NOTIFICATION			
Notice of Hearings on Applications	PA	340-100-002(1); 340-106-012; <i>[466.125(1)&(2)]</i>	<p>Prior to holding hearings on a hazardous waste disposal site permit application, the Commission shall give notice in the county or counties where the proposed site is located in a manner reasonably calculated to notify interested and affected persons of the permit application.</p> <p>The notice shall contain:</p> <ul style="list-style-type: none"> Ⓒ information on the approximate location of the site; Ⓒ the type and amount of materials intended for disposal; Ⓒ a time and place for a public hearing; and Ⓒ a statement that any person interested in or affected by the proposed site shall have opportunity to testify at the hearing. <p>In addition, Oregon incorporates 40 CFR 124.10 by reference.</p>
PUBLIC MEETING			
No specific provisions found.		340-100-002(1)	At 340-100-002(1), Oregon incorporates by reference 40 CFR Part 124, Subpart A--Procedures for Decision Making. However, the State excludes Subpart B of Part 124--Specific Procedures Applicable to RCRA Permits, which includes provisions for public meetings.

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Topic	Stage ¹	State citation ²	Provision
PUBLIC HEARINGS			
Public Hearing in Areas of Proposed Site	PA	340-100-002 (1); 340-106-012; <i>[466.130]</i>	<p>The Commission shall conduct a public hearing in the county or counties where a proposed hazardous waste disposal site is located and may conduct hearings at such other places as the Department considers suitable.</p> <p>At the hearing the applicant may present the application and the public may appear or be represented in support of or in opposition to the application.</p> <p>In addition, Oregon incorporates 40 CFR 124.12 by reference.</p>
ADJUDICATORY HEARINGS			
No provisions found.			
OTHER			
No provisions found.			

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SITING RESTRICTIONS AND PROHIBITIONS			
Federal siting restrictions and prohibitions can be viewed at http://www.epa.gov/epacfr40/chapt-I.info/subch-I/ by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
SOIL AND WATER			
Groundwater protection	PPA	340-120-010(2)(f)	Using a groundwater quality protection evaluation matrix: C Surface impoundments, land treatment facilities and waste piles can only be located on an area rated as “2” or “3”; C Landfills can only be located on an area rated as “3”.
Perennial surface water/municipal watershed siting restrictions	PPA	340-120-015 (1)(c)(A),(D), (G)&(H)	The proposed facility must be sited at least one-quarter mile from: -- perennial surface water, estuaries, and wetlands -- municipal watersheds -- Willamette River Greenway -- coastal shorelands, beaches, and dunes
SEISMIC CONSIDERATIONS			
Active seismic fault siting restriction	PPA PA	340-120-015 (1)(c)(I); 340-104-001(2); 340-100-002(1)	The proposed facility must be sited at least one-quarter mile from active seismic faults. In addition, Oregon incorporates 40 CFR 264.18(a) by reference.
FLOODING AND EROSION			
Flood hazard area siting restriction	PPA PA	340-120-015 (1)(c)(E); 340-104-001(2); 340-100-002(1)	The proposed facility must be sited at least one-quarter mile from flood hazard areas. In addition, Oregon incorporates 40 CFR 264.18(b) by reference.

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AIR			
No provisions found.			
DISTANCE LIMITATIONS/BUFFER ZONES			
Location restrictions	PPA	340-120-010 (2)(d) and 340-120-015 (1)(b)&(c)	<p>Ⓒ The proposed facility must be sited at least one mile from:</p> <ul style="list-style-type: none"> -- areas within urban growth boundaries as defined by ORS 197.295; -- wilderness, parks, and recreation areas as designated or identified in the applicable local comprehensive plan or zoning maps; -- scenic view sites; -- destination resorts; -- Federal and state scenic waterways; -- rural communities and rural residential areas; -- public airports; and -- schools, churches, hospitals, nursing homes, retail centers, stadiums, auditoriums, and residences except those owned by the applicant and necessary for facility operation. <p>Ⓒ The proposed facility must be sited at least one-quarter mile from:</p> <ul style="list-style-type: none"> -- Perennial surface water (including rivers, streams, lakes, oceans and reservoirs), estuaries, and wetlands; -- municipal watersheds; -- flood hazard areas; -- slide hazard areas; -- Willamette River Greenway; -- Coastal shorelands, beaches and dunes; -- active seismic faults; -- historic and cultural areas; and -- ecologically and scientifically significant natural areas.

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Restrictions relating to low density populations around a facility	PPA	340-120-015(1)	<p>Ⓒ To assure low density populations around a facility, the facility shall be sited at least the following distances from an acknowledged urban growth boundary:</p> <ul style="list-style-type: none"> -- One mile from areas within an urban growth boundary containing a population of 2500 people or less. -- Two miles from areas within an urban growth boundary containing a population between 2,500 and 10,000 people. -- Three miles from areas within an urban growth boundary containing a population of 10,000 people or greater.
Property line setbacks	PPA	340-120-010 (2)(e)	<p>Ⓒ Hazardous waste and PCB treatment and disposal facilities, other than land disposal facilities, on the site of waste generation shall have at least a 250 foot separation between active waste management areas and facilities, and property boundaries;</p> <p>Ⓒ Hazardous waste and PCB treatment and disposal facilities off site of waste generation and land disposal facilities on the site of waste generation shall have at least a 1,000 foot separation between active waste management areas and facilities, and property boundaries.</p>
Variance	PPA	340-120-010 (2)(d)(B)	<p>Ⓒ The Department may consider a lesser distance than one mile from urban growth boundaries, wilderness, parks, recreation areas, schools, churches, hospitals, nursing homes, retail centers, stadiums, auditoriums and residences, if the applicant demonstrates that the lesser distance adequately protects the public health and safety and the environment.</p>
OTHER HUMAN HEALTH CONSIDERATIONS			
Emergency service criteria	PPA	340-120-015 (1)(f)	<p>As part of the Land Use Compatibility Findings: Emergency services, including medical care, to respond to and address emergencies and accidents at the facility or involving wastes traveling on local transportation routes to the facility have been identified and their adequacy assessed.</p>

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Transportation criteria	PPA	340-120-015 (1)(g) & (h)	As part of the Land Use Compatibility Findings: C The facility must have more than one transportation highway to it; C The appropriate city, county, and state highway or transportation departments have reviewed the local transportation routes to the facility for safety; and C Improvement recommendations are implemented prior to the first waste receipt.
Off-site transportation emergencies	PPA	340-120-025	An emergency response team owned by or under contract to the owner or operator of the facility will be located within 25 miles of the facility. The team will be capable of immediate response to spills occurring within 50 miles (to account for waste in transit to the facility) of the facility.
ENVIRONMENTALLY SENSITIVE AREAS			
No provisions found.			
Endangered Species			
No specific provisions found. See critical habitats.			
Critical Habitats			
Ecologically and scientifically significant natural areas	PPA	340-120-015 (1)(c)(C)	Hazardous waste facilities must be sited at least one quarter mile from ecologically and scientifically significant natural areas.
Wetlands			
Setbacks for perennial surface water, estuaries, and wetlands	PPA	340-120-015 (1)(c)(A)	Hazardous waste facilities must be sited at least one-quarter mile from perennial surface water (including rivers, streams, lakes, oceans, and reservoirs), estuaries, and wetlands.

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Wild, Scenic or Recreational Areas			
Setbacks for wild, scenic and recreational areas	PPA	340-120-010 (2)(d)(A)(ii) and 340-120-015(1)(b)(B)-(E)	<p>Ⓒ Hazardous waste facilities must be sited at least one mile from wilderness, parks, scenic view sites, Federal and state scenic waterways, and recreation areas as designated or identified in the applicable local comprehensive plan or zoning map.</p> <p>Ⓒ Hazardous waste facilities must be sited at least one-quarter mile from Willamette River Greenway, coastal shores, and beaches and destination resorts.</p>
Approved Farmland Preservation Areas			
No provisions found.			
Other			
Setbacks for slide hazard areas	PPA	340-120-015 (1)(c)(F)	Hazardous waste facilities must be sited at least one-quarter mile from slide hazard areas.
OTHER RESTRICTIONS			
Compliance with development standards	PPA	340-120-015 (1)(d)	The proposed hazardous waste facility must comply with all applicable development standards in the local land use regulations.
Facility infringement	PPA	340-120-015 (1)(e)	The proposed facility must not prevent the use of adjacent lands for uses permitted or otherwise allowed in the applicable zone.

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Topic	Stage ¹	State citation ²	Provision
ENVIRONMENTAL JUSTICE CONSIDERATIONS			
No provisions found.			
ECONOMIC CRITERIA			
No provisions found.			
OTHER CRITERIA			
Technology and design criteria	PPA	340-120-010 (2)(c)	The proposed facility shall use the best available technology as determined by the Department for treatment and disposal of hazardous waste and PCB waste. The facility shall use the highest and best practicable treatment and/or control as determined by the Department to protect public health and safety and the environment.
Necessity criteria	PPA	340-120-010 (2)(a)	<p>To obtain an Authorization to Proceed from the Department, a proposed facility must demonstrate that it is needed. The following criteria must be met to show need:</p> <p>C Need criteria</p> <ul style="list-style-type: none"> -- There is a lack of adequate current treatment or disposal capacity to handle hazardous waste or PCB generated waste by Oregon companies; or -- The operation of a new facility would result in higher level of protection of the public health and safety or environment; or -- The operation of a new facility would significantly lower treatment or disposal costs to Oregon companies, excluding transportation costs within states that are parties to the Northwest Interstate Compact on Low-Level Radioactive Waste Management (Compact) as set forth in ORS 469.930. <p>C The facility will significantly add to the range of the hazardous waste or PCB handled or to the type of technology already employed at a permitted treatment or disposal facility in states that are parties to the Compact;</p> <p>Notwithstanding the above criteria, the Department may deny an Authorization to Proceed request if it finds that capacity at other treatment or disposal facilities negate the need for a</p>

¹PPA = Pre-permit application provision

PA = Post permit application, but prior to draft permit provision

PDP = Post draft permit provision

²Citations bracketed in italics (e.g., [361.063]) indicate provisions from the State's statutes; citations in regular print are from the State's regulations.

Oregon Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Capacity criteria	PPA	340-120-010 (2)(b)	<p>To obtain an Authorization to Proceed from the Department, a proposed facility must meet the following capacity criteria:</p> <ul style="list-style-type: none"> Ⓒ Must not be sized less than what is needed, in conjunction with existing facilities in the Compact states, to treat or dispose of all hazardous waste or PCB generated waste, or reasonably projected to be generated over the next 10 years; Ⓒ Must not be sized greater than needed to treat or dispose of all hazardous waste or PCB generated waste, or reasonably projected to be generated over the next 10 years in states that are parties to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; Ⓒ If the facility is sized to treat or dispose of more hazardous waste or PCB generated waste outside Oregon than hazardous waste or PCB generated waste in Oregon, the applicant must demonstrate to the Department that the additional size is needed to make the proposed facility economically feasible; <p>If all of the criteria of rule 340-120-010(2) are met, the Commission may give preference to a proposed facility which is sized more closely to what is needed to treat or dispose of hazardous waste or PCB generated waste in Oregon.</p>
Owner and operator capability criteria	PPA	340-120-010 (2)(g)	<p>The owner, any parent company of the owner, and the operator must demonstrate adequate financial and technical capability to properly construct and operate the facility. As evidence of financial capability, the following shall be submitted:</p> <ul style="list-style-type: none"> Ⓒ Financial statements of the owner, any parent company of the owner, and the operator audited by an independent certified public accountant for three years immediately prior to the application; Ⓒ The estimated cost of construction and a plan detailing how the construction will be funded; and Ⓒ A three year projection, from the date the facility is scheduled to begin operating, of revenues and expenditures related to operating the facility. The projection should have sufficient detail to determine the financial capability of the owner, any parent company of the owner, and the operator to properly operate the facility.

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Oregon Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Compliance history criteria	PPA	340-120-010 (2)(h)	<p>The compliance history in owning and operating other similar facilities, if any, must indicate that the owner, any parent company of the owner, and the operator have an ability and willingness to operate the proposed facility in compliance with the provisions of ORS Chapter 466 and any permit conditions that may be issued by the Department of Commission. As evidence of ability and willingness, the following shall be submitted:</p> <ul style="list-style-type: none"> C A listing of all responses to past actual violations identified by EPA or the appropriate state regulatory agency within the five years immediately preceding the filing of the request for an Authorization to Proceed at any similar facility owned or operated by the applicant, owner, any parent company of the owner, or operator during the period when the actions causing the violations occurred; and C Any written correspondence from EPA and the appropriate state regulatory agency which discusses the present compliance status of any similar facility owned or operated by the applicant, owner, any parent company of the owner, or operator. <p>Upon request of the Department, the applicant shall also provide responses to the past violations identified prior to the five years preceding the filing of an Authorization to Proceed and the specific compliance history for a particular facility owned or operated by the applicant, owner, any parent company of the owner, or operator.</p>

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